

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINALL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO.5846 OF 2004

Mangesh Vishwanath Kunjir .. Applicant.

vs.

The State of Maharashtra .. Respondents.

Shri Uday Warunjikar. Advocate for the Applicant.

Mr.D.S. Mhaispurkar, APP for the State.

CORAM : S.R.SATHE, J.

DATED : 27th December, 2004.

P.C. :

1. Heard learned Advocate for the applicants and the learned APP.

2. The accusation against the accused is for the offences punishable under section 323, 326, 504 r/w.34 of I.P.C.

3. It is alleged that earlier anticipatory bail application has been rejected by the Sessions Court when the learned Advocate for the

applicant/accused was not present to argue the matter.

4. The learned advocate for the applicant/accused argued before me that as per the prosecution version the injured was hit with iron rod on head and as a result of the same he sustained grievous injury. It is also alleged that kicks and blows were also given to him by other persons. It was therefore, suggested that unless it is shown that the present applicants are connected with the offence under Section 326 it would not be proper to arrest them. It was therefore, submitted that the applicant be granted anticipatory bail.

5. The learned APP submitted that there are witnesses to the incident who have specifically named the present applicant as the assailant. As the applicants are charged for committing offence in furtherance of their common intention, at this stage it is not necessary to find out as to which of the accused gave blow on the head. It is not even contended in the application that the accused

even contended in the application that the accused is falsely involved in the case. At this stage, there is nothing to show that applicants are involved on false accusation. So, when the matter is under investigation it is not desirable to grant anticipatory bail to the applicant/accused. Hence, the application is rejected.

6. Application is disposed of accordingly.

7. Parties to act on the ordinary copy of this order duly authenticated by the Court Sheristedar.

(S.R. Sathe, J.)